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*Attorneys for Defendants  
C. R. Bard, Inc. and  
Bard Peripheral Vascular, Inc.*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products Liability  
Litigation

No. 2:15-MD-02641-DGC

**MOTION FOR EXTENSION OF  
TIME TO FILE DEFENDANTS'  
MOTION FOR SUMMARY  
JUDGMENT REGARDING  
PREEMPTION**

(First Request)

Pursuant to Local Rule of Civil Procedure 7.3, Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively "Bard") hereby move the Court for an extension of time to file Defendants' motion for summary judgment regarding preemption to March 24, 2017, and in support of its motion states as follows:

1. On February 17, 2017, the Court entered Case Management Order No. 22 (Doc. 5007), ordering Bard to file a motion for summary judgment arguing that Plaintiffs' claims are preempted by March 17, 2017.

2. The Court selected that date after Defendants' counsel proposed March 17, 2017 as a date for filing the motion, believing that the process which was then underway would be completed by that date. (*See* 8th Sched. Conf. Hr'g Tr. 10:9-13 Feb. 17, 2017).

3. In Case Management Order No. 22 (Doc. 5007), the Court ordered as follows:

By **March 17**, 2017, Defendants shall file a motion for summary judgment arguing that Plaintiffs' claims are pre-empted. The parties shall then confer about whether Plaintiffs can respond immediately to the motion or whether Plaintiffs need time to prepare expert responses or conduct other discovery. (The Court is not implying that other discovery will be permitted.) The parties shall address their respective positions on this issue in their joint report for the next status conference. If Plaintiffs believe that additional factual or expert development is needed, they shall attach to the joint report an affidavit or declaration that complies with Rule 56(d) of the Federal Rules of Civil Procedure. At the status conference, the Court will determine whether additional factual or expert development is required and will set a schedule to complete briefing.

4. While Defendants are nearing completion of the motion, the task of assembling and organizing the massive factual record supporting the motion has proven to be a time-consuming task. A brief one-week extension should enable Defendants to submit the factual materials in an organized fashion that will assist the Court and all parties.

5. Counsel for Bard contacted counsel for the Plaintiffs seeking their consent to file a joint stipulation for a one-week extension, extending the time to file to March 24, 2017. Counsel for the Plaintiffs offered to stipulate to an extension to March 21, 2017.

6. Plaintiffs will not be prejudiced by a delay of an additional three days. The parties have until April 28, 2017 to submit their joint status report addressing whether Plaintiffs need additional time or discovery to respond to the motion. As a result, even with a one-week extension, Plaintiffs will still have five weeks to prepare any declaration regarding further discovery they deem appropriate under Fed. R. Civ. P. 56(d). Additionally, the Court has **not** set a deadline for Plaintiffs to respond to the motion. This deadline will not be set until the next status conference on May 3, 2017, after the Court

1 reviews the parties' respective positions on the issue in their joint status report.

2 7. Bard has made no previous requests to the Court for an extension of time  
3 concerning its motion for summary judgment regarding preemption.

4 WHEREFORE, Bard respectfully requests the Court to extend the time to file  
5 Defendants' motion for summary judgment regarding preemption to March 24, 2017.

6 RESPECTFULLY SUBMITTED this 15th day of March, 2017.

7 s/Richard B. North, Jr.  
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**Attorney for Defendants C. R. Bard, Inc. and  
Bard Peripheral Vascular, Inc.**

**CERTIFICATE OF SERVICE**

23 I hereby certify that on this 15th day of March 2017, the foregoing was  
24 electronically filed with the Clerk of Court using the CM/ECF system which will  
25 automatically send email notification of such filing to all attorneys of record.

26 s/Richard B. North, Jr.  
27 Richard B. North, Jr.  
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